

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 376**

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**Introduced by Senator Lara**

February 24, 2015

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An act to amend Section 10507.7 of, and to add Section 10507.6 to, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, as amended, Lara. Public contracts: University of California.

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and require the university to be administered by the Regents of the University of California (regents), a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes, including such competitive bidding procedures as may be applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Existing law requires the regents, except as provided, to let all contracts involving an expenditure of ~~more than~~ \$100,000 *or more* annually for goods and materials or services, excepting personal or professional services, to the lowest responsible bidder meeting certain specifications, or to reject all bids. Existing law, until January 1, 2018, also authorizes the bid evaluation and selection for these contracts to be determined by the best value.

This bill would require a bidder, to qualify as a lowest responsible bidder or best value ~~awardee~~, *awardee on contracts for specified services*, to certify in writing to the University of California (UC) that the bid includes a total employee compensation package that is valued

on a per-employee basis at a level sufficient that it does not materially undercut the average per-employee value of total compensation for UC employees who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work. The bill would require the UC to include in its request for proposals a calculation of the average per-employee value of total compensation for UC employees who perform comparable work at the relevant location, as prescribed. The bill, with respect to contracts for ~~services, would remove services involving an expenditure of \$100,000 or more, would not except~~ personal services from the lowest responsible bidder ~~requirement exemption and requirement. The bill would require~~ contracts for services involving an expenditure ~~exceeding~~ of \$100,000 or more annually to include any renewals or extensions of the contract that ~~will also~~ would result in an expenditure ~~exceeding~~ of \$100,000 or more annually.

*This bill would exclude specified employees and public works from these provisions, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) It is a matter of statewide concern that responsible
- 3 competitive bidding at the University of California not undercut
- 4 the wages and benefits provided by the University of California
- 5 for comparable work, given that a significant percentage of
- 6 University of California employees already are eligible for public
- 7 benefits and any material decrease in the compensation of
- 8 employees performing such work would result in materially
- 9 increased General Fund costs for the provision of benefits.
- 10 (b) It is a matter of statewide concern that the University of
- 11 California not repeat past instances in which public resources have
- 12 been squandered via contracting out to for-profit private contractors
- 13 that charge significant administrative overhead.
- 14 SEC. 2. Section 10507.6 is added to the Public Contract Code,
- 15 to read:
- 16 10507.6. (a) For the purposes of this article, to qualify as a
- 17 lowest responsible bidder or best value ~~awardee~~, *awardee on any*
- 18 *contract for building maintenance, cleaning, or custodial services,*

1 *call center services, dining services, grounds keeping services,*  
2 *laborer services, mail room services, parking or transportation*  
3 *services, security services, or patient care technical employee or*  
4 *nursing assistant services, a bidder shall certify the following in*  
5 *writing to the University of California:*

6 ~~(a) That California~~ *that the bid includes a total employee*  
7 *compensation package, including fringe benefits, that is valued on*  
8 *a per-employee basis at a level sufficient that it does not materially*  
9 *undercut the average per-employee value of total compensation,*  
10 *including fringe benefits, for employees of the University of*  
11 *California who perform comparable work at the relevant campus,*  
12 *medical center, or laboratory at which the bidder proposes to*  
13 *perform the work.*

14 (b) ~~The University of California shall implement this paragraph~~  
15 *section by including in its request for proposals a calculation of*  
16 *the average per-employee value of total compensation, including*  
17 *fringe benefits, for employees of the University of California who*  
18 *perform comparable work at the relevant campus, medical center,*  
19 *or laboratory, and that calculation shall use all known cost*  
20 *escalators to project the future rate of growth of average*  
21 *per-employee total compensation costs.*

22 *The requirements of this section shall not apply to employees*  
23 *subject to Section 1191.5 of the Labor Code or Section 214(c) of*  
24 *Title 29 of the United States Code. Any employees covered by*  
25 *Section 1191.5 of the Labor Code or Section 214(c) of Title 29 of*  
26 *the United States Code shall be omitted from all calculations and*  
27 *certifications required by this article.*

28 (c) *This section does not apply to any work subject to Chapter*  
29 *1 (commencing with Section 1720) of Part 7 of Division 2 of the*  
30 *Labor Code.*

31 SEC. 3. Section 10507.7 of the Public Contract Code is  
32 amended to read:

33 10507.7. (a) Except as provided for in this article, the Regents  
34 of the University of California shall let all contracts involving an  
35 expenditure of more than one hundred thousand dollars (\$100,000)  
36 annually for goods and materials to be sold to the University of  
37 California to the lowest responsible bidder meeting specifications,  
38 or else reject all bids. Contracts for services to be performed, other  
39 than professional services, involving an expenditure of one hundred  
40 thousand dollars (\$100,000) or more annually shall be made or

1 entered into with the lowest responsible bidder meeting  
2 specifications, or else all bids shall be rejected. If the regents deem  
3 it to be for the best interest of the university, the regents, on the  
4 refusal or failure of the successful bidder for materials, goods, or  
5 services to execute a tendered contract, may award it to the second  
6 lowest responsible bidder meeting specifications. If the second  
7 lowest responsible bidder fails or refuses to execute the contract,  
8 the regents may likewise award it to the third lowest responsible  
9 bidder meeting specifications.

10 (b) For the purposes of this section, contracts for services  
11 involving an expenditure of one hundred thousand dollars  
12 (\$100,000) or more annually shall include any renewal or extension  
13 of an existing contract, if the renewal or extension involves an  
14 expenditure of one hundred thousand dollars (\$100,000) or more  
15 annually.